

EXHIBIT 15

Delacruz.txt

25 automatic final copy order.

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1 DEPOSITION OF JERRY DELA CRUZ

2 DECEMBER 10, 2019

3 ROUGH DRAFT ONLY

4

5 THE VIDEOGRAPHER: Good morning. We are
6 now on the video record on December 10th, 2019. The
7 time is 9:31 a.m. My name is Kevin McMahon. The
8 court reporter today is Mona Russo. We're both here
9 representing Esquire Deposition Solutions in San
10 Francisco, California.

11 This is the beginning of disk 1 for the
12 deposition of Jerry Dela Cruz in the matter of
13 Hernandez, et al., versus Wells Fargo Bank, N.A.
14 The case number is 18 CV 0735 WHA. We are located
15 at Winston Strawn, 101 California Street, 35th
16 Floor, San Francisco, California, 94111.

17 Counsel, would you please identify
18 yourselves for the record?

19 MS. ROSS: Sure. Joelle Ross from
20 Winston & Strawn on behalf of the defendants.

21 MR. FLINT: Ariel Flint from Winston &
22 Strawn on behalf of the defendants.

23 MS. LAM: Linda Lam of Gibbs Law Group for

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24 plaintiffs.

25 MR. KOSBIE: Jeffrey Kosbie of Gibbs Law

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1 Group for plaintiffs.

2 THE VIDEOGRAPHER: The court reporter may

3 swear in the witness.

4 (The witness was sworn by the reporter.)

5 THE VIDEOGRAPHER: Please proceed.

6 BY MS. ROSS:

7 Q Mr. Dela Cruz, can you please state your
8 name for the record?

9 A My name is Jerry Dela Cruz.

10 Q And I know we met a moment ago. I'm
11 Joelle Ross. I'm one of the attorneys for the
12 defendant, Wells Fargo, and I'm going to be asking
13 you a series of questions related to this lawsuit
14 today.

15 Are you prepared to testify today?

16 A Yes.

17 Q Is there any reason why you cannot testify
18 fully and truthfully today?

19 A No, I don't think so.

20 Q Do you understand that you are under oath
21 today?

22 A Yes.

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23 Q Have you ever been a witness in a
24 deposition before?

25 A Not at all.

3

▲

1 Q How about have you ever given sworn
2 testimony in a trial?

3 A No.

4 Q To make sure that we have a clean record,
5 I'm just going to ask that you answer my questions
6 verbally, which you have been doing, so just make
7 sure to not shake your head yes or no?

8 A Okay.

9 Q Please don't use unclear answers like
10 uh-huh or mh-hm. And I'm going to do the same
11 myself. Does that sound good?

12 A I'm going to try not to move my head.
13 Yes.

14 Q And if you don't understand a question for
15 any reason, just ask me to rephrase the question.
16 Is that okay?

17 A Yes.

18 Q Okay. We're going to try to take a break
19 every hour or so, and if you need to take a break at
20 any time, just let us know and we can pause, but I
21 will ask that if a question is pending, that you

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22 answer the question before we take our break. Is

23 that okay?

24 A Okay.

25 Q Okay. Are you being represented by

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1 counsel today?

2 A Yes.

3 Q And who is your counsel?

4 A These guys right here, I think.

5 Q Do you know their names?

6 A Jeff and Linda.

7 Q Okay. And they're from Gibbs Law Group?

8 A Yes.

9 Q Okay. When did you retain them as your
10 counsel?

11 A Today, I believe. I met them today.

12 Q What time?

13 A About 8:30.

14 Q And where did you meet them?

15 A In the lobby downstairs.

16 Q Downstairs of this building?

17 A Yes.

18 Q Okay. And did you meet with them?

19 A Yes, prior to this deposition.

20 Q So it's about 9:30 now. So you've met

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21 with them for about an hour?

22 A I believe so, yes.

23 Q Okay. Did you review any documents with
24 counsel?

25 A No.

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1 Q Did you -- so you didn't review any
2 documents to refresh your recollection of what
3 happened?

4 A No.

5 Q Okay. So I'm going to show you what we're
6 going to mark as Exhibit 601.

7 THE REPORTER: 601.

8 MS. ROSS: Thank you. 601.

9 (Defendant's Exhibit was marked for
10 identification.)

11 BY MS. ROSS:

12 Q It's a copy of the federal court subpoena
13 that you received.

14 A Yes.

15 Q Do you recognize this document?

16 A Yes, I do. I'm sorry.

17 Q And you were served with this document on
18 November 30th; is that right? On or about
19 November 30th?

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20 A Yeah, I think so.

21 Q Okay. Did you read through this document
22 when you received it?

23 A A little bit, yes.

24 Q Okay. And if you look at the first page,
25 it says you are commanded to appear at the time,

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1 date and place set forth below to testify at a
2 deposition to be taken in this civil action. And
3 then it provides the address for this office, and it
4 says December 10th at 9:00 a.m.; is that right?

5 A Yes.

6 Q And so that's why you are here today?

7 A Yes.

8 Q Is that right?

9 A Yes.

10 Q Okay. Also on the first page, it says
11 production, and it says that you must bring to the
12 deposition the following documents: Electronically
13 stored information or objects, see attached
14 Exhibit A. Do you see that?

15 A Yes.

16 Q Okay. Turning to Exhibit A, which is
17 about the fourth page of the document, did you
18 review Exhibit A when you received this subpoena?

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19 A Yes, just a little bit.

20 Q And did you bring any documents with you
21 today that were in response to these requests?

22 A No, I don't think so.

23 Q Did you bring any documents with you
24 today?

25 A Yes.

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1 Q And you provided those documents to
2 counsel?

3 A Yes.

4 Q All of the documents you brought with you
5 today?

6 A Yes.

7 Q Okay. What did you do to prepare for your
8 deposition today?

9 A I just collected all the documents that I
10 had, and that was pretty much it.

11 Q And what were the documents that you
12 collected?

13 A It was receipts from checks that Wells
14 Fargo has given me.

15 Q Do you remember what the dates of those
16 checks were offhand?

17 A One was, I believe, September 2018, and

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18 then one was, I think, last month.

19 Q Were there any other documents that you
20 collected besides the checks?

21 A No.

22 Q Did you do anything else to prepare for
23 your deposition?

24 A Not at all. I didn't know it was going to
25 happen.

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1 Q You met with counsel?

2 A I met with them, yes.

3 Q Okay. Have you spoken with anyone else
4 besides your counsel about your deposition today?

5 A No.

6 Q Have you spoken with anyone besides
7 counsel about this lawsuit?

8 A No.

9 Q Have you ever been a party to another
10 lawsuit?

11 A No.

12 Q Have you ever gone by any other names?

13 A No.

14 Q No nicknames?

15 A No nicknames.

16 Q Okay. Are you currently married?

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17 A No.

18 Q Have you previously been married?

19 A No.

20 Q Do you have any children?

21 A No.

22 Q You currently reside in Daly City?

23 A Yes.

24 Q Is that how you say it?

25 A Yes.

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1 Q Okay, great. Daly City, California. Is
2 that a suburb of San Francisco?

3 A Yes, it is.

4 Q And how far away is it from this office
5 here?

6 A Well, when I Googled it, Google mapped, it
7 was 40 minutes. That's because of traffic.

8 Q 40 minutes because of traffic?

9 A Yeah, but if not, probably 20 minutes.

10 Q Did you drive here today?

11 A Yes, I did.

12 Q Did you pay for your own gas and expenses
13 to get here today?

14 A Yes, I did.

15 Q How long have you lived in Daly City,

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16 California?

17 A 2012, seven years.

18 Q Do you own the home you currently reside

19 in?

20 A No, I don't.

21 Q Do you rent?

22 A Yes, I do.

23 Q Do you live by yourself?

24 A No, I don't.

25 Q Who do you live with?

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1 A I live with my cousin.

2 Q Who is your cousin?

3 A Oscar.

4 Q What's Oscar's last name?

5 A Galay.

6 Q And how old is Oscar?

7 A 44.

8 Q Do you live with anyone else?

9 A His wife.

10 Q And what's her name?

11 A Erica.

12 Q Is her last name Galay as well?

13 A Yes, it is.

14 Q And how old is she, about?

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15 A 34.

16 Q Okay. Do you live with anyone besides
17 Oscar and Erica?

18 A No, just us three.

19 Q And have you lived with Oscar and Erica
20 the whole seven years you've lived in Daly City?

21 A No.

22 Q When did you move in with Oscar and Erica?

23 A Maybe a year after.

24 Q Okay.

25 A 2013, '14, something like that. She came

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1 later.

2 Q When did she move in?

3 A '14, I think, 2014.

4 Q And did you live with anyone the first
5 year you lived in Daly City?

6 A No.

7 Q Have you lived with anyone else besides
8 Oscar and Erica during that seven-year period you've
9 lived in Daly City?

10 A No.

11 Q The property that we're going to be
12 discussing today is located in Stockton, California;
13 is that right?

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14 A Yes.

15 Q How far is Stockton, California, from
16 here?

17 A I believe two hours, a two-hour drive.

18 Q Two hour driving?

19 A Yes.

20 Q I want to now turn to a bit about your
21 background. Can you please tell me about your
22 educational background, beginning with high school?

23 A Yes. I went to South San Francisco high
24 school, all four years.

25 Q Did you attend college?

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1 A I went to CSM, community college
2 San Mateo, for, I think, a year and a half.

3 Q Did you receive a degree from there?

4 A No, I didn't.

5 Q Did you do any other postgraduate classes?

6 A I took machining courses, welding course
7 at City College, and I believe that's it.

8 Q Did you receive any type of certificate
9 from those courses, the machining course and welding
10 course?

11 A No, not at all.

12 Q What did you study when you were at

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13 San Mateo college?

14 A I was just doing general, general
15 education.

16 Q What about your professional background?
17 Well, let me back up.

18 When did you take these classes at
19 San Mateo college?

20 A I don't remember. It was such a long time
21 ago.

22 Q Okay. Okay. Then let's switch, I guess,
23 to your professional background. Are you currently
24 working?

25 A Yes, I do, I am.

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1 Q And what do you do?

2 A I work for a surgical company. We
3 manufacture surgical instruments for spinal and
4 orthopedic surgery.

5 Q How long have you worked at this company?

6 A 12 years.

7 Q So since about 2007?

8 A I think so, yes.

9 Q And what was the company's name?

10 A West Coast surgical.

11 Q West Coast surgical?

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12 A Mh-hm.

13 Q Have you had the same role at West Coast
14 surgical the whole 12 years you've worked there?

15 A Yes.

16 Q What's your job title?

17 A Supervisor, production supervisor.

18 Q So you've been a production supervisor the
19 whole 12 years?

20 A Yes.

21 Q Okay. What are your general
22 responsibilities as a production supervisor?

23 A Making sure we stay on schedule, send out
24 the instruments at the end of the month, our quota,
25 hit our quota.

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1 Q Anything else?

2 A That's it, I believe, yeah, and work hard,
3 of course.

4 Q Yes. Us, too. Where is West Coast
5 surgical located?

6 A It is in Half Moon Bay, California.

7 Q Where is that?

8 A Off the coast. It's by Pacifica, further
9 down, Highway 1.

10 Q Yeah.

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11 A Going towards Santa Cruz.

12 Q Okay.

13 A Yeah. It's a small little town out there.

14 Q And how far -- is it driving distance?

15 A Yes.

16 Q How far?

17 A From my place, it's 14 and a half miles, I
18 believe.

19 Q Okay.

20 A Mh-hm.

21 Q When you started at West Coast surgical in
22 2007, what was your salary?

23 A I don't remember.

24 Q Can you give me a ballpark?

25 A 17, 18.

15

↑ 1 Q Are you talking 17 --

2 A Dollars an hour.

3 Q \$17 an hour?

4 A And 18, yes.

5 Q Okay. Are you an hourly employee?

6 A I'm on the clock still.

7 Q Okay. And how many hours per week do you
8 usually work?

9 A I do a lot of overtime, so maybe ten-hour

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10 days.

11 Q For five days a week?

12 A Yeah. Well, not Fridays, just -- I do a
13 regular eight on Fridays.

14 Q Okay. So --

15 A Like Monday to Thursday, it's ten-hour
16 days.

17 Q Okay. So between a 40 to 50 hour
18 workweek?

19 A Yes.

20 Q Did you receive any promotions in those 12
21 years at West Coast surgical?

22 A No.

23 Q Did you receive any pay raises in those 12
24 years?

25 A Yes.

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1 Q When was that?

2 A Yearly, every year.

3 Q And how much did you -- how much does it
4 go up each year?

5 A Depending on my performance that year.

6 Q I guess let's go year to year then. So in
7 2007, it was around 17 to \$18 an hour.

8 What was it in 2008?

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9 A I think they went 8 percent up.
10 Q Okay.
11 A Yeah, something like that.
12 Q And then what about 2009?
13 A Probably the same thing.
14 Q Okay. Was it the same thing in 2010?
15 A I believe so.
16 Q And 2011?
17 A Yeah.
18 Q Is it usually 8 percent increase each
19 year?
20 A Yeah.
21 Q Is there any year you remember it being
22 much higher or lower than 8 percent?
23 A No.
24 Q What are you currently making today?
25 A Close to \$30 an hour.
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1 Q And are you still working that 40 to
2 50-hour workweek?
3 A Yes.
4 Q Do you ever work weekends?
5 A Once in a while.
6 Q Okay. But it's not usual?
7 A Not usual, only for -- to get that quota.

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8 Q Yeah. What's the overtime rate?

9 A Time and a half, I believe.

10 Q Time and a half?

11 A Yes.

12 Q And does overtime kick in once you hit 40
13 hours?

14 A Yes, I believe so.

15 Q Where did you work before West Coast
16 surgical?

17 A I've been working -- doing the same thing
18 for about 21 years. So I worked for -- it was
19 actually a previous owner. He owned the old
20 company. So I was working for pacific surgical
21 innovation, and I was doing that for about ten
22 years, also.

23 Q Oh, wow.

24 A Yeah, yeah, yeah, a total of 20 years I've
25 been doing the same -- same thing.

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1 Q Yeah, that's great.

2 A Yeah.

3 Q Is it the same location, even?

4 A No, not at all. It's in San Carlos.

5 Q Has the location for West Coast surgical
6 been the same the whole 12 years?

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7 A No. That was new. Oh, yeah, yeah. I'm

8 sorry. 12 years, yes.

9 Q Yes. Okay.

10 A I'm sorry.

11 Q No problem. Okay.

12 So during this 12-year period, did you
13 have any other sources of income besides your job?

14 A No.

15 Q Do you have any investments?

16 A Just my 401(k).

17 Q What about people who contributed to
18 household expenses, like Oscar or Erica?

19 A Yeah, we share on stuff for the house, of
20 course.

21 Q Okay. And what do you mean by that?

22 A Like toilet paper, just stuff like garbage
23 bags, you know, food.

24 Q Groceries?

25 A Groceries, yes.

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1 Q What about utilities?

2 A Yes, utilities, also.

3 Q What about cable?

4 A Yes, cable, the usual.

5 Q Is it -- do you split it three ways?

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6 A Two ways.

7 Q What about rent?

8 A Yes. We split it two ways.

9 Q How much is the rent total?

10 A 17.

11 Q Hundred?

12 A Yes.

13 Q 1700?

14 A Yes, yes.

15 Q So you pay -- oh, my gosh -- 650?

16 A Yes.

17 Q Is it a condo you guys live in?

18 A We stay in an in-law.

19 Q What's an in-law?

20 A It's an extension of a house. We stay at

21 the bottom, downstairs.

22 Q Oh.

23 A They fixed it up, added some rooms.

24 Q Oh, nice.

25 A Yeah.

1 Q Do you have a car?

2 A Yes.

3 Q Is it your car?

4 A Yes.

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5 Q Do you pay for all expenses on the car?

6 A Yes.

7 Q You don't split the car expenses with

8 Oscar or Erica?

9 A Not at all.

10 Q Have you ever filed for bankruptcy?

11 A No.

12 Q One last question about your household

13 expenses: Have you and Oscar and Erica been

14 splitting the household expenses two ways the entire

15 time you've lived together?

16 A Yes.

17 Q And you've lived together at the same

18 apartment the whole time?

19 A Yes.

20 Q Okay. And what's the address of that

21 apartment?

22 A It's 583 Gellert Boulevard, Daly City,

23 California.

24 Q Oh, I did my math wrong.

25 You've been paying 850 a month in rent?

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1 A Yes.

2 Q I think I misstated and said 650 earlier.

3 Okay. So you pay 850. Great.

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4 So turning now to the loan at issue, this
5 loan concerns property at 2942 Fisher Court,
6 Stockton, California, 95207; is that right?

7 A Mh-hm.

8 Q And I believe it's condo Number 1934?

9 A I'm not sure.

10 Q What's -- what's the addresses that you
11 know for the property at issue?

12 A I remember Fisher court.

13 Q Okay. Well, we can look at documents
14 where it has the condo number.

15 A Okay.

16 Q It is a condo, though; is that right?

17 A Yes.

18 MS. ROSS: Can we mark this as 602,
19 please?

20 (Defendant's Exhibit was marked for
21 identification.)

22 BY MS. ROSS:

23 Q I'm now showing what we've marked as
24 Exhibit 602, which is, if you look at the bottom
25 right, these are called Bates numbers, and so when I

22

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1 refer to a Bates number throughout the day today,
2 those are the numbers I'm referring to. It's just

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3 easy for page numbering purposes.

4 A Okay.

5 Q So this document is labeled WFHERNANDEZ

6 00175713 through 175716.

7 A Okay.

8 Q Do you recognize this document?

9 A I don't remember this document.

10 Q Do you want to take a minute to review it?

11 If you turn to the last page of the document, in the

12 middle of the page, is that your signature?

13 A Yes.

14 Q And it's dated May 5th, 2011?

15 A Yes.

16 Q So this document is a loan application,

17 and you can see that on the first page; is that

18 right?

19 A Yes.

20 Q And also on the first page, it has the

21 subject property address as 2942 Fisher Court,

22 Stockton, California, 95207.

23 Do you see that?

24 A Mh-hm.

25 Q So it's a loan application for that

23

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1 property?

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2 A Okay.

3 Q That you signed; is that right?

4 A Yes, yes.

5 Q Okay. Just making sure.

6 A Sorry. Yes, I am.

7 Q And then also it's a little bit of a bad
8 copy of the document, so I apologize, but it's all
9 we have. Above the property address, it's the terms
10 of the mortgage and it says amount, 41,400. Do you
11 see that?

12 A Yes.

13 Q Do you recall that the loan application
14 was for a loan of 41,400?

15 A No, I don't recall.

16 Q What do you remember the loan to be?

17 A Actually, I don't remember. I just filled
18 this out.

19 Q Do you have any reason to doubt that you
20 requested a loan in the amount of 41,400?

21 A No.

22 Q So it's possible that this is what you
23 filled out?

24 A Yes, yes, of course.

25 Q In 2011, and that you requested a loan of

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1 \$41,000?

2 A Mh-hm.

3 Q Okay.

4 THE REPORTER: This is 603.

5 (Defendant's Exhibit was marked for
6 identification.)

7 BY MS. ROSS:

8 Q I am now showing you what we've marked as
9 Exhibit 603, which is Bates labeled 175076
10 to 175081.

11 Do you recognize this to be the note for
12 the property at 2942 Fisher Court, Stockton,
13 California?

14 A No, I don't. I don't remember this.

15 Q If you look at the top left, this document
16 is dated May 4th, 2011.

17 Do you see that?

18 A Yes, yes.

19 Q And if you turn to the second to last
20 page, is that your signature?

21 A Yes.

22 Q So you signed this document; is that
23 right?

24 A Yes.

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25 Q Did you review this document before you

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1 signed it?

2 A I believe I did at that time, yes.

3 Q And turning back to the first page, do you

4 see it says borrower's promise to pay, and then it

5 says I promise to pay \$41,400? Do you see that?

6 A Yes.

7 Q Okay. So this refreshes your recollection

8 that your loan was in the amount of \$41,400?

9 MR. KOSBIE: I object to form.

10 BY MS. ROSS:

11 Q Was your loan in the amount of \$41,400?

12 A Yes.

13 Q Okay. In the middle of the first page,

14 underneath paragraph 3, payments, subsection B,

15 amount of monthly payment, my monthly payment will

16 be in the amount of \$235.06.

17 Do you see that?

18 A Yes.

19 Q Were your monthly payments under the loan

20 \$235.06?

21 A Yes.

22 MS. ROSS: 604.

23 (Defendant's Exhibit was marked for

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24 identification.)

25 BY MS. ROSS:

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1 Q I'm now showing you what we've marked as
2 Exhibit 604, which is Bates labeled WFHERNANDEZ
3 00175156 to 175177, which is the deed of trust for
4 the Fisher Court property.

5 Do you recognize this document as the deed
6 of trust for the property at issue?

7 A No, I don't.

8 Q Turning to the second page of the
9 document, do you see that the document underneath
10 the words deed of trust, it is dated May 4th, 2011?

11 A Mh-hm.

12 Q And it lists you, Jerry Dela Cruz, as the
13 borrower?

14 A Yes.

15 Q And if you turn to the page ending in
16 Bates Number 175169, which is in the middle of the
17 document, do you see your signature there?

18 A Yes.

19 Q So you signed this document?

20 A Yes.

21 Q Did you read through this document before
22 you signed it?

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23 A I'm sure I did at that time, but I don't
24 remember now.

25 Q Turning now to the page ending in 175159,

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1 which I think is about the fourth page of the
2 document, if you look at the section uniform
3 covenants, and then look at Number 1, payment of
4 principal, interest, escrow items, prepayment
5 charges, and late charges, will you please take a
6 moment to read through this paragraph?

7 A Out loud?

8 Q Oh, no.

9 A Oh, I'm sorry.

10 Q Just your -- just read what it says.

11 (Document review.)

12 THE WITNESS: Okay.

13 BY MS. ROSS:

14 Q In your own words, what does this
15 paragraph mean to you?

16 A It means I have to pay them because I
17 signed a form.

18 Q And now turning to the page ending
19 in 175168, which is in the middle of the document,
20 underneath nonuniform covenants, paragraph 22,
21 acceleration remedies, will you take a moment and

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22 read through this paragraph?

23 A Okay.

24 (Document review.)

25 THE WITNESS: Okay.

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▲

1 BY MS. ROSS:

2 Q In your own words, what does this
3 paragraph of the agreement mean to you?

4 A That I have to pay them back agreement,
5 security instruments.

6 Q Is it fair to say that this paragraph says
7 Wells Fargo can require immediate payment of the
8 mortgage if you fail to pay monthly payments before
9 the due date?

10 MR. KOSBIE: I object as to form.

11 THE WITNESS: Yes.

12 BY MS. ROSS:

13 Q And looking at the first paragraph under
14 paragraph 22, like the first section at the top, the
15 second to last sentence of that paragraph says, if
16 the default is not cured on or before the date
17 specified in the notice, lender at its option may
18 require immediate payment in full of all sums
19 secured by this security instrument without further
20 demand and may invoke the power of sale and any

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21 other remedies permitted by applicable law.

22 Do you see that?

23 A Yes.

24 Q Did you read this paragraph when you --
25 before you signed the document?

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1 A No, I didn't.

2 Q So you never read this paragraph before?

3 A No.

4 Q When you signed this security instrument
5 here today, that's here in front of you -- let me
6 start over.

7 When you signed this deed of trust, did
8 you understand that you were required to make
9 monthly payments on time?

10 A Yes.

11 Q And did you understand that if you did not
12 make monthly payments on time, Wells Fargo had the
13 right to require immediate payment of the mortgage
14 in full?

15 MR. KOSBIE: I object as to form.

16 THE WITNESS: No, I didn't know that.

17 BY MS. ROSS:

18 Q But it's stated in this paragraph that we
19 just looked at; is that the?

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20 A Yes.

21 MR. KOSBIE: I object as to form.

22 BY MS. ROSS:

23 Q So you just did not read the paragraph?

24 A This one right here?

25 Q Before you signed?

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↑

1 A No, I didn't.

2 Q Did you read the document before you
3 signed?

4 A Not all of it.

5 Q Turning to -- in this document, turning to
6 the second to last page, which is Bates
7 numbered 175176, do you see this page is called
8 second home rider?

9 A Mh-hm.

10 Q And it is dated May 4th, 2011; is that
11 right?

12 A Yes.

13 Q And it has the property address 2942
14 Fisher Court in Stockton, California?

15 A Yes.

16 Q And if you turn the page to the last page
17 of the document, is that your signature?

18 A Yes.

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19 Q So you signed this document?

20 A Yes.

21 Q Did you review the document before you
22 signed?

23 A No.

24 Q Did you work with an attorney to obtain
25 this mortgage?

31

↑

1 A No.

2 Q Did you work with -- or was anyone with
3 you when you signed all these documents?

4 A My uncle.

5 Q And who's your uncle?

6 A Oscar, Oscar, senior, Galay, senior.

7 Q Oscar Galay, senior?

8 A Yeah.

9 Q Did Oscar review these documents?

10 A I don't know if he did.

11 Q Did he see the documents?

12 A I'm sure he did, yes.

13 Q Did you guys discuss the contents of the
14 mortgage?

15 A Yes.

16 Q Is the property at 2942 Fisher Court the
17 first home that you've owned?

Delacruz.txt

18 A Yes.

19 Q Was the property at 2942 Fisher Court your
20 primary residence?

21 A No.

22 Q What was your primary residence?

23 A At that time, I was living in Pacifica.

24 Q In 2011?

25 A Yes.

32

↑

1 Q What was your address in Pacifica?

2 A I thought I saw it on one of these that I
3 filled out the form. Right here, 336 Glen court
4 way, Pacifica, California.

5 Q Can you let me know what exhibit you're
6 looking at?

7 A Oh, yeah, sorry.

8 Q What's the number at the bottom? Sorry.

9 A 602.

10 Q Okay. And what is the page number at the
11 bottom right -- I mean, the Bates number?

12 A 713 -- 00175713.

13 Q Got it. Thank you. Okay. I see what
14 you're looking at. 335 Glen court way, Pacifica,
15 California?

16 A Yeah.

Delacruz.txt

17 Q And that was your address in 2011?

18 A Yes.

19 Q Where is Pacifica, California?

20 A It is next to Daly City. It's the city
21 over. They're very close. It's pretty much the
22 same city over.

23 Q So 45 minutes from here?

24 A Same thing, yeah, with traffic.

25 Q With traffic?

33

↑

1 A Yeah, yeah, very close.

2 Q How long did you live at that address in
3 Pacifica?

4 A Five -- five years, I believe. I'm not
5 too sure. Five years, yeah, so '06, 2006.

6 Q So 2006 to about 2011?

7 A '11, yeah.

8 Q And where did you move after you left the
9 Pacifica address?

10 A I moved to Daly City.

11 Q And that was in about 2012?

12 A Yes.

13 Q Did you live with anyone at the Pacifica
14 address?

15 A I lived with my mom at the time, yeah.

Delacruz.txt

16 Q Anyone else?

17 A No.

18 Q Did you own the home at the Pacifica
19 address?

20 A No.

21 Q Were you renting?

22 A Yes.

23 Q How much were you paying in rent?

24 A I was renting a room there. It was, I
25 think, around 7, 700.

34

↑

1 Q 700 a month?

2 A 700 a month, yes.

3 Q Did you split the cost with your mom?

4 A No.

5 Q So you paid the whole 700?

6 A Yeah.

7 Q And was it 700 a month for the entire time
8 you lived at the Pacifica address?

9 A Yes, I believe so.

10 Q When you moved to the Daly City address in
11 2012, your rent was \$850 a month?

12 A No. I was -- I moved there first by
13 myself, so --

14 Q So how much were you paying?

Delacruz.txt

15 A I was paying full -- I was paying 12,
16 actually, because it was just me.

17 Q And then Oscar moved in in about 2013?

18 A Mh-hm.

19 Q And at that time, did you split the cost
20 of the rent with Oscar?

21 A Not -- not right away.

22 Q When did you start splitting the cost with
23 him?

24 A Maybe a year later.

25 Q Okay. And did your rent increase from

35

↑

1 2012 to today?

2 A Yeah.

3 Q How much has it increased?

4 A About 400, 400, \$500, yeah.

5 Q Okay. So today it's about \$1,700 a month?

6 A Yeah, close to 17, yeah, 16 or 17, yeah.

7 Q And I think that's what you said earlier,
8 yeah. Okay.

9 Do you recall how much your rent was in
10 2012?

11 A The whole -- the whole year or --

12 Q Yeah.

13 A Yeah. I was paying \$1,200 a month.

Delacruz.txt

14 Q And what about in 2013?

15 A When I moved in. And then when my cousin
16 moved in, it went up to 16, 17, and then I was still
17 paying -- helping him out because he was -- he
18 didn't have a job right away. So I was -- I was
19 doing still the 12 and he was paying the rest.

20 Q Okay.

21 A Until he got -- yeah.

22 Q So did the rent increase from 1200 to 1600
23 between 2012 and 2013?

24 A Yes.

25 Q Okay. So it increased \$400 --

36

↑

1 A Yeah, because there was two of us.

2 Q Oh, because there was a second person?

3 A Yeah, yeah.

4 Q Okay. Got it. I'm following now.

5 A I'm sorry.

6 Q No problem. Getting back to the Fisher
7 Court address now in Stockton, did anyone else live
8 there besides you?

9 A No.

10 Q Did anyone else ever stay there for any
11 period of time?

12 A I don't know.

Delacruz.txt

13 Q So did you give the keys to people?

14 A My uncle was -- had it.

15 Q He had the keys?

16 A Was taking care -- yeah.

17 Q To your condo?

18 A Yeah.

19 Q So you don't know if other people were
20 staying there when you weren't there?

21 A Hm-mh.

22 Q Did you ever rent it out?

23 A No, I don't think so.

24 Q So you never had a tenant at that
25 property?

37

↑

1 A I don't know. I don't think so.

2 Q Well, how often would you go visit that
3 property?

4 A I didn't visit it at all.

5 Q You never went?

6 A Maybe once, once, to see how it got fixed
7 up, because it was in -- it was in bad shape. We
8 just, you know, upgraded things. That's it.

9 Q What did you do to upgrade?

10 A Just fixed the cabinets and tiles on the
11 sync.

Delacruz.txt

12 Q In the kitchen?

13 A Yeah.

14 Q In the bathroom?

15 A I don't remember the bathroom.

16 Q Just the kitchen?

17 A Yeah.

18 Q And you said you replaced the tile?

19 A Yeah, just kind of updated it.

20 Q Did you replace any appliances?

21 A I don't remember.

22 Q So you said you only went to the Fisher

23 Court address once?

24 A Mh-hm.

25 Q And when was that?

38

↑

1 A Actually, twice. When I first saw it and

2 then the second time when -- to see all the -- all

3 the stuff being fixed, and that was it.

4 Q When you first saw it, that was in 2011?

5 A Yes.

6 Q Before you signed the mortgage?

7 A Yes.

8 Q When did you go back to see the updates to

9 the kitchen?

10 A Maybe a month later.

Delacruz.txt

11 Q And who did the updates to the kitchen?

12 A My uncle.

13 Q Did your uncle live at that property?

14 A I don't know. I don't think so.

15 Q Did he have another address?

16 A Yeah.

17 Q Was the other address his home?

18 A Yes.

19 Q Why did you purchase the Fisher Court

20 property?

21 A Just to own property, be a property owner.

22 Q What was your plan for using the property?

23 A Probably rent it out.

24 Q But you never ultimately did rent it out?

25 A I -- I don't know. I don't -- I was

39

↑

1 letting my uncle take care of that.

2 Q Did you ever receive rental income?

3 A No.

4 Q Did you visit your uncle?

5 A What do you mean?

6 Q Yeah. Let me clarify.

7 Before you purchased this property --

8 A Okay.

9 Q -- would you often visit your uncle?

Delacruz.txt

10 A Yes, when my mom was alive, I would --
11 that's her brother, so I would take her to visit
12 him, but after she passed, I hardly saw him. It's
13 so far away. That's why. Only holidays is when I
14 would see him.

15 Q Okay. Because it's about, you said, two
16 hours?

17 A Two-hour drive, yeah.

18 Q How often would you go with your mom?
19 Would you say once a month? Every other month?

20 A I would say maybe twice a year, maybe
21 three, for birthdays, stuff like that. That's it.

22 Q And when did your mom pass?

23 A 10, 2010.

24 Q 2010?

25 A July, yes.

40

↑

1 Q And you said after that you wouldn't go as
2 frequently?

3 A Yeah.

4 Q So maybe once a year?

5 A Yeah. And, actually, I didn't go there to
6 visit him in his place at all, just those two times
7 in Stockton. We would always meet at other family
8 parties. That's when I would see him, yes.

Delacruz.txt

9 Q Oh, okay, okay.

10 A But I think just those two times, yes.

11 Q So what made you then think of Stockton as
12 a place to purchase property?

13 MR. KOSBIE: I object as to form.

14 THE WITNESS: It's closer to Stockton, to
15 my uncle.

16 BY MS. ROSS:

17 Q But if you --

18 A It's cheaper out there, too.

19 Q So your plan was to purchase the property
20 and have your uncle manage it; is that right?

21 MR. KOSBIE: I object as to form.

22 BY MS. ROSS:

23 Q And you weren't planning on visiting the
24 property often?

25 A Yeah. I just never got time to. It's so

41

↑

1 far and I was busy.

2 Q But you wanted to keep the property for a
3 long period of time?

4 A Sure.

5 Q Did you furnish the property?

6 A No.

7 Q Was there furniture -- strike that.

Delacruz.txt

8 When you went to visit it the one time to
9 see the kitchen updates, was there furniture inside?

10 A No, not at all.

11 Q Did you tell your uncle to furnish the
12 property?

13 A No, not at all.

14 Q Did your uncle say that he was going to
15 rent it out?

16 A I think so.

17 Q Did you follow up with him to find out if
18 he did rent it out?

19 A No.

20 Q And I think you already said this, but you
21 never received rental income?

22 A No.

23 Q Okay. So as far as you know, the property
24 was vacant the whole time that you owned it?

25 A As far as I know, yes.

42

↑

1 Q Did you see the home as an investment
2 opportunity?

3 A Yes.

4 MR. KOSBIE: I object as to form.

5 BY MS. ROSS:

6 Q Did you like the property?

Delacruz.txt

7 A It was okay.

8 Q What makes it okay?

9 A It was a place. It was property, but just
10 the resident it was in, I didn't like it too much,
11 too much work.

12 Q So why did you purchase it?

13 A I thought it would be nice just to be a
14 homeowner, too, property owner.

15 Q And this was the only property that you
16 owned at this time in 2011?

17 A Yes.

18 Q Is it the only property that you've ever
19 owned?

20 A Yes.

21 Q And the property was purchased by you
22 alone; is that right?

23 A Mh-hm.

24 Q Did your uncle help with the down payment
25 on the property?

43

↑

1 A No.

2 Q How much did you purchase the home for in
3 2011?

4 A I believe -- from the loan approval,
5 right? 14 -- 40, 40,400.

Delacruz.txt

6 Q Looking at -- do you have Exhibit 603, the
7 loan application, in front of you?

8 A Yes.

9 Q Okay. If you look at the page ending
10 in 175715, it's the third page of the document.

11 A What was it again? I'm sorry.

12 Q 175715.

13 A 715. 175 --

14 MR. KOSBIE: Counsel, which exhibit was
15 that?

16 MS. ROSS: 603.

17 MR. FLINT: 602.

18 MS. ROSS: 602. Sorry about that.

19 THE WITNESS: 17515. Okay.

20 BY MS. ROSS:

21 Q If you look at the bottom of the page, it
22 has details of the transaction.

23 A Mh-hm.

24 Q And the first row says purchase price. It
25 says 51750.

44

↑

1 Do you see that? In the bottom section.

2 A Okay.

3 Q Details of the transaction.

4 A Mh-hm.

Delacruz.txt

5 Q The first row says purchase price.

6 A Purchase price. I got it, yeah.

7 Q 51750.

8 A Yeah.

9 Q Did you purchase the home for 51750?

10 A I guess, yeah.

11 Q You have no reason to doubt that this is
12 incorrect, right?

13 A Yeah, yeah, of course. I just don't
14 remember.

15 Q And then if you turn the page to the last
16 page, it has the loan amount, which is the second to
17 last row, 41,400.

18 A Yeah.

19 Q And that is the loan that you took out
20 from the bank; is that right?

21 A Yes.

22 Q And then the last column is cash from to
23 borrower, and it says \$12,150.50.

24 A Mh-hm.

25 Q Do you see that?

45

↑

1 A Mh-hm.

2 Q Was that the down payment that you made to
3 purchase the home?

Delacruz.txt

4 A Yes.

5 Q And how did you get the money for the down
6 payment?

7 A I think my uncle used that, yeah.

8 Q So your uncle gave you the \$12,000?

9 A Yeah.

10 Q Why did your uncle do that?

11 A Because he wanted to, you know -- because
12 he was closer to the property, and he was going to
13 maintain it for me.

14 Q Was your uncle going to pay the monthly
15 payments?

16 A I think so.

17 Q Did your uncle pay the monthly payments?

18 A I'm not sure.

19 Q So you never monitored the payments?

20 A I trusted him.

21 Q In 2011, at the time you purchased the
22 property, what was your annual household income?

23 A Repeat that again. I'm sorry.

24 Q Sure. In 2011, so the year that you
25 purchased the home, what was your household income?

46

↑

1 A How much I was getting an hour or my
2 paychecks?

Delacruz.txt

3 Q For the year, if you can guess.

4 A I don't remember.

5 Q Okay. So we can calculate it. You said
6 it was about 17 or -- do you remember how much you
7 were making an hour in 2011?

8 A Oh, let's see. About a little over 20.

9 Q Okay.

10 A 20 an hour.

11 Q So it would be 20 an hour times 40 to 50
12 hours a week?

13 MR. KOSBIE: I object as to form.

14 BY MS. ROSS:

15 Q And that would be what your household
16 income was for the year?

17 A I believe so.

18 Q So you worked -- you had no other sources
19 of income in 2011?

20 A No, no.

21 Q Other than your job?

22 A Yes.

23 Q Okay. Did your uncle give you any other
24 money besides the \$12,000 for the down payment?

25 A No.

47

↑

1 Q Okay. Let's -- is now an okay time for a

Delacruz.txt

2 break? It's been about an hour?

3 MR. KOSBIE: Yeah, sure.

4 MS. ROSS: Okay. We're going on to the
5 next topic.

6 THE VIDEOGRAPHER: We're going off the
7 record. The time is 10:28 a.m.

8 (Recess taken.)

9 THE VIDEOGRAPHER: We are back on the
10 record. The time is 10:44 a.m. Please proceed.

11 BY MS. ROSS:

12 Q Mr. Dela Cruz, I'm now going to hand you
13 what we're marking as 605.

14 (Defendant's Exhibit was marked for
15 identification.)

16 BY MS. ROSS:

17 Q This document is Bates labeled WFHERNANDEZ
18 00174580.

19 Do you recognize this document?

20 A No, I don't.

21 Q It is a letter to W.J. Bradley mortgage,
22 and it was written by you.

23 Do you see that?

24 A I don't remember writing this.

25 Q Is that your signature at the bottom?

Delacruz.txt

↑

1 A Yeah.

2 Q Do you have any reason to doubt that you
3 wrote this in 2011?

4 A I don't -- I don't remember writing this.

5 Q But it's possible that you did write it?

6 MR. KOSBIE: I object as to form.

7 THE WITNESS: I don't know. I don't know.

8 BY MS. ROSS:

9 Q You just don't remember writing it; is
10 that right?

11 MR. KOSBIE: I object as to form.

12 THE WITNESS: I don't think I wrote this.

13 BY MS. ROSS:

14 Q Who wrote it then?

15 A I don't know who wrote it.

16 Q But you did sign the document at the
17 bottom; is that right?

18 A I don't remember writing it.

19 Q Is that your signature, though?

20 A That's my signature.

21 Q Okay. If you look at the last paragraph
22 of this letter, the middle of the paragraph, it
23 says, this is the first chance for me to own a
24 property. I believe that it will appreciate in a

Delacruz.txt

25 few years so it's a good use of my money.

49

↑

1 A Hm. I don't remember.

2 Q And that's consistent with what you
3 testified earlier, that you wanted to be a property
4 owner; is that right?

5 A Yes.

6 MR. KOSBIE: I object as to form.

7 BY MS. ROSS:

8 Q Is it correct that purchasing the 2942
9 Fisher Court property was the first chance for you
10 to own property?

11 A Yes.

12 Q And is it also true that you believed that
13 the property was a good investment?

14 A At that time.

15 Q And you testified earlier that your uncle
16 gave you the money for the down payment on the home;
17 is that right?

18 A Yeah.

19 Q And that was about \$12,000?

20 A Mh-hm.

21 Q Did your uncle say why he gave you the
22 money?

23 A To help get the -- get the property.

Delacruz.txt

24 Q Did you ask him for it?

25 A No, no.

50

↑

1 Q He offered it to you?

2 A Yes.

3 Q Why didn't your uncle buy the home
4 himself?

5 MR. KOSBIE: I object as to form.

6 THE WITNESS: I don't know.

7 BY MS. ROSS:

8 Q So the plan was for your uncle to help you
9 with the down payment?

10 A Mh-hm.

11 Q And for you to purchase the home and then
12 for your uncle to kind of oversee the property; is
13 that right?

14 A Yes.

15 Q After you purchased the property, did you
16 give the keys to your uncle?

17 A Yeah.

18 Q Did you maintain a set of the keys
19 yourself?

20 A No, not at all.

21 Q And you asked your uncle to look over the
22 property?

Delacruz.txt

23 A Mh-hm.

24 Q And to do the upgrades to the kitchen?

25 A Mh-hm. No. He did that himself.

51

▲

1 Q One thing, if you could just watch out for
2 the mh-hms and the huhs.

3 A I'm sorry.

4 Q I didn't really notice that either, but
5 just so we're clear on the record.

6 A Got it.

7 Q Yes. Okay. I'm just going to ask my
8 question again so that we get a clear answer. So
9 you asked your uncle to look over the property; is
10 that right?

11 A Yes.

12 Q And you said that your uncle's plan was
13 maybe to rent out the property; is that right?

14 A Yes.

15 Q But as far as you know, he never did rent
16 the property?

17 A As far as I know.

18 Q Because you never received rental income?

19 A Yes.

20 Q How often did you speak to your uncle
21 about the property?

Delacruz.txt

22 A Not too often.

23 Q Like once a month or --

24 A Maybe more than that. Mostly maybe two
25 months, every two months.

52

▲

1 Q Once every other month?

2 A Yeah, and it wasn't nothing too important,
3 you know.

4 Q What would you say?

5 A I would just say how's everything going
6 with place? Is it doing well? That's it.

7 Q And he never told you about renting the
8 property out.

9 A I had an idea he might.

10 Q Why did you have that idea?

11 A Because he was fixing it up and he had his
12 own place.

13 Q Okay.

14 A Or he was staying with someone, with his
15 wife.

16 Q He lived somewhere else?

17 A Yes.

18 Q Got it. And you said he lived with his
19 wife?

20 A Yes.

Delacruz.txt

21 Q Did he -- how far was his home from the
22 Fisher Court property?

23 A Not far. It's also in the same -- it's
24 also in Stockton.

25 Q Okay.

53

↑

1 A But I don't know how --

2 Q Close it was?

3 A Yeah, yeah.

4 Q Do you know if your uncle owned his home
5 with his wife?

6 A I don't know.

7 Q So you never lived at the property?

8 A The Fisher Court?

9 Q Sorry. Yes. Thank you.

10 A No.

11 Q You never lived at the Fisher Court
12 property?

13 A No.

14 Q Did you ever stay overnight at the Fisher
15 Court property?

16 A No.

17 Q And as far as you know, your uncle never
18 lived at the Fisher Court property?

19 A I don't know if he did, as far as I know.

Delacruz.txt

20 Q As far as you know?

21 A Yes.

22 Q And you also testified that you didn't see
23 any furniture at the property when you were there.

24 A Not at all.

25 Q Okay. Just making sure.

54

↑

1 Who paid for the kitchen upgrades?

2 A I believe my uncle did.

3 Q You didn't pay for them?

4 A No.

5 Q Is that right?

6 A No, no.

7 Q Okay. Did you pay for any of the upgrades
8 that were done on the property?

9 A As far as I know, it was only the -- that
10 I saw, was the kitchen, and, no.

11 Q Did you make any other -- outside of the
12 kitchen, do you remember making any other payments
13 for any of the general maintenance on the property?

14 A No.

15 Q And as far as you know, you said the
16 property was essentially vacant the whole time that
17 you owned it?

18 A As far as I know, yeah.

Delacruz.txt

19 Q Okay. Okay. Let's go back to

20 Exhibit 603, which is the note.

21 A Oh, yeah.

22 Q The --

23 A Exhibit 605?

24 Q 603.

25 A Sorry.

55

↑

1 Q One we looked at earlier today.

2 A Okay. The note?

3 Q Yes, that one.

4 A Okay.

5 Q If you look on the first page, at the

6 third section called payments, do you see where I'm

7 looking?

8 A Yes.

9 Q It says, I will make my monthly payment on

10 the first day of each month, beginning on July 1st.

11 Do you see that?

12 A Yes.

13 Q And so you understood that the first

14 payment on your mortgage was due July?

15 A Yes.

16 Q 2011?

17 A Yes.

Delacruz.txt

18 Q And underneath that paragraph, subsection

19 B says my monthly payment will be in the amount

20 of \$235.06. Do you see that?

21 A Yes.

22 Q And was that the monthly payments that

23 were due on the mortgage?

24 A Yes.

25 Q Was there an additional payment due each

56

↑

1 month for property taxes?

2 A I don't know.

3 Q Was there an additional payment due each

4 month for home insurance?

5 A I don't know.

6 Q What about was there an additional payment

7 due each month for condo fees?

8 A I don't know.

9 Q Do you recall any condo fees that were

10 owed to the condo association?

11 A No.

12 Q So you never paid any condo fees if there

13 was any?

14 A None.

15 Q Who made the payment of \$235.06 on

16 July 1st, 2011?

Delacruz.txt

17 A My uncle.

18 Q And how do you know your uncle made the
19 payment?

20 A I trust him.

21 Q Did your uncle provide you with the money
22 that you then sent to Wells Fargo?

23 A No.

24 Q How did the payment happen?

25 A I think he was getting the checks -- I

57

↑

1 mean, the statements, and I think he was paying it.

2 I don't know, actually.

3 Q So as far as you know, your uncle paid the
4 bank directly?

5 A I -- I'm hoping.

6 Q I'm just trying to figure out what your
7 involvement with the payments was.

8 A I don't know.

9 Q So you didn't have any involvement in the
10 monthly payments?

11 A Yes.

12 Q As far as you know, your uncle was sending
13 money directly to the bank?

14 A Yes.

15 Q Was this an arrangement that you made with

Delacruz.txt

16 your uncle prior to signing the mortgage?

17 A Yes.

18 Q And what was the arrangement?

19 A That he would -- he just needed my
20 signature for -- to get a loan and he would take
21 care of the rest.

22 Q Okay. So your uncle agreed to make the
23 monthly payments on the mortgage?

24 A Yes.

25 Q Every month?

58

↑

1 A Yes.

2 Q Looking at the note that you have in front
3 of you, if you see in the first section under
4 borrower's promise to pay, it says, in the second
5 line, the lender is W.J. Bradley mortgage capital
6 corporation, an Oregon corporation.

7 Do you see that?

8 A What was it again? I'm sorry.

9 Q Under the first section at the top --

10 A Oh, yes, yes. I'm sorry.

11 Q It lists the lender as W.J. Bradley
12 mortgage capital corporation, an Oregon corporation.

13 A Mh-hm.

14 Q And as far as you know, was this the

Delacruz.txt

15 original mortgage lender?

16 A I don't remember. Sorry.

17 Q Do you recall that at some point, though,

18 Wells Fargo became the mortgage servicer of your

19 loan?

20 A I think so.

21 Q Because you eventually received

22 communications from Wells Fargo?

23 A Yes.

24 Q Is that right?

25 A Yes.

59

▲

1 Q And do you recall around when that was?

2 A No, I don't.

3 Q If I were to say it was around July 2013,

4 does that sound about right?

5 A I can't say.

6 Q Okay.

7 A I don't remember.

8 Q I'm now handing you what we're marking as

9 Exhibit 606.

10 (Defendant's Exhibit was marked for

11 identification.)

12 BY MS. ROSS:

13 Q Have you seen this document before?

Delacruz.txt

14 A I don't remember.

15 Q This document, if you look at the top
16 right section, it's dated July 8th, 2013.

17 A July 8th. Yes.

18 Q Yes. And if you look at the second
19 paragraph of this document, it lists your name; is
20 that right?

21 A Second paragraph. Yes.

22 Q Okay. And this is -- it's called an
23 assignment of deed of trust.

24 Do you see that?

25 A Mh-hm.

60

↑

1 Q And it says that essentially -- or I'll
2 just read it. It says, for good and valuable
3 consideration this efficiency of which is hereby
4 acknowledged mortgage electronic registration
5 systems, Inc. as nominee for W.J. Bradley mortgage
6 capital corporation and successors and assigns, the
7 address, for value received the undersigned hereby
8 grants assigns and transfers to Wells Fargo Bank
9 assignee all beneficial interests under certain deed
10 of trust, and it continues.

11 Do you see where I'm reading?

12 A Yes.

Delacruz.txt

13 Q Okay. So this document shows that your
14 mortgage was transferred from that W.J. Bradley
15 mortgage to Wells Fargo; is that right?

16 A Yeah.

17 MR. KOSBIE: I object as to form.

18 BY MS. ROSS:

19 Q Okay. And then eventually you received
20 communications from Wells Fargo; is that right?

21 A I think so, yes.

22 Q Okay, great. Was the mortgage that you
23 had that we've looked at at 2942 Fisher Court the
24 only mortgage that you had on that property?

25 A Yes.

61

↑

1 Q So you had one mortgage?

2 A I believe so, yes.

3 Q Do you recall that the monthly payments
4 of \$235.06 increased slightly in early 2013?

5 A No, I didn't.

6 Q And why don't you recall that?

7 A Because I had no idea. I had no forms to
8 read or anything.

9 Q Did your uncle tell you?

10 A No.

11 Q Did you have any contact with the bank

Delacruz.txt

12 during that time?

13 A The Wells Fargo Bank?

14 Q Yes.

15 A No.

16 Q I'm now going to hand you what we're going
17 to mark as Exhibit 607.

18 (Defendant's Exhibit was marked for
19 identification.)

20 BY MS. ROSS:

21 Q Which is Bates labeled WFHERNANDEZ
22 00174468 to 174470. And this is a letter from Wells
23 Fargo to you; is that right?

24 A Mh-hm.

25 Q And it was sent to the property address

62

↑

1 2942 Fisher Court, Stockton, California; is that
2 right?

3 A Yes.

4 Q And the letter is dated August 15th, 2012;
5 is that right?

6 A Yes.

7 Q Did you receive this document?

8 A No.

9 Q Have you ever seen this document before?

10 A No.

Delacruz.txt

11 Q Who was checking the mail at the Fisher

12 Court property?

13 A My uncle, I suppose.

14 Q Yeah, because as you said, he was

15 maintaining the property.

16 A (Nods head).

17 Q And that would have included -- is that a

18 yes? Sorry.

19 A Yes, yes. I'm sorry again. Sorry again.

20 Q And your uncle was maintaining the

21 property; is that right?

22 A Yes.

23 Q And that would include checking the mail;

24 is that right?

25 A Yes.

63

↑

1 Q And your uncle was in charge of making the

2 monthly payments; is that right?

3 A Yes.

4 Q So he would have likely opened a letter

5 from Wells Fargo; is that right?

6 A Yes.

7 MR. KOSBIE: I object as to form.

8 BY MS. ROSS:

9 Q On the first -- the first line of the

Delacruz.txt

10 letter says during a review of your account we
11 learned your property taxes payable to your taxing
12 authority are past due.

13 Do you see that?

14 A Yes.

15 Q And then the next sentence says, if you
16 paid your taxes, please send us proof of your
17 payment by September 14th, 2012.

18 Do you see that?

19 A Yes.

20 Q Did you pay property taxes in 2012 for
21 this property?

22 A No.

23 Q Was your uncle supposed to be paying the
24 property taxes at the 2942 Fisher Court property?

25 A I believe so, yes.

64

↑

1 Q And so you were never made aware that your
2 property taxes were past due?

3 A No.

4 Q Your uncle never told you?

5 A Hm-mh.

6 Q And you didn't hear directly from the
7 bank; is that right?

8 A No.

Delacruz.txt

9 Q Because your uncle was receiving your
10 mail?

11 A I think so, yes.

12 Q Okay. We're now handing you what we're
13 going to mark as Exhibit 608.

14 (Defendant's Exhibit was marked for
15 identification.)

16 BY MS. ROSS:

17 Q Which is Bates labeled WFHERNANDEZ
18 00174462 to 174464. And this is a letter from Wells
19 Fargo addressed to you; is that correct?

20 A Yes.

21 Q And it was sent to the property address
22 2942 Fisher Court, Stockton, California; is that
23 right?

24 A Yes.

25 Q And the date of the letter is

65

↑

1 September 14th, 2012; is that right?

2 A Yes.

3 Q And then the first sentence of the -- or
4 the first paragraph of the letter says, we are
5 writing to follow up on a letter we sent notifying
6 you that your taxes are past due. In our letter we
7 asked you to send us proof you paid these taxes. We

Delacruz.txt

8 have not received your proof of payment document.

9 Do you see that?

10 A Yes.

11 Q Did you receive this letter?

12 A No.

13 Q And that is because you were not receiving
14 your mail at the Fisher Court property; is that
15 right?

16 A Yes, I wasn't.

17 Q Your uncle was receiving the mail at the
18 Fisher Court property; is that right?

19 A Mh-hm.

20 Q And you have no reason to doubt that your
21 uncle received this letter?

22 A Mh-hm.

23 Q Is that yes?

24 A Yes.

25 Q Did your uncle ever tell you that you

66

▲

1 received a letter about past due taxes?

2 A No.

3 Q I'm now handing you what we're going to
4 mark as Exhibit 609.

5 (Defendant's Exhibit was marked for
6 identification.)

Delacruz.txt

7 BY MS. ROSS:

8 Q This document is Bates labeled WFHERNANDEZ
9 00174458 to 00174459. And this is a letter from
10 Wells Fargo directed to you; is that right?

11 A Yes.

12 Q And it was sent to the address 2942 Fisher
13 Court, Number 1934, Stockton, California; is that
14 right?

15 A Yes.

16 Q And the letter was dated November 1st,
17 2012; is that right?

18 A Yes.

19 Q Looking at the first paragraph of the
20 letter, Wells Fargo wrote we're writing to let you
21 know that you will soon see an increase in your
22 mortgage payment amount. Your mortgage payment will
23 increase because we advanced funds on your behalf to
24 pay the balance due on your property taxes and/or
25 purchase lender placed insurance for your property.

67

↑

1 Do you see that?

2 A Yes.

3 Q Did you receive this letter?

4 A No, I didn't.

5 Q So your uncle never sent this letter to

Delacruz.txt

6 you?

7 A No.

8 Q But it is likely that your uncle received
9 this letter?

10 MR. KOSBIE: I object as to form.

11 THE WITNESS: I'm not sure.

12 BY MS. ROSS:

13 Q Was your uncle checking the mail at Fisher
14 Court?

15 A I'm sure he was, yeah.

16 Q And you personally never paid property
17 taxes on the Fisher Court property; is that right?

18 A Not at all.

19 Q Were you ever made aware that the mortgage
20 payments -- the monthly -- let me start over.

21 Were you ever made aware that the monthly
22 mortgage payments increased as a result of Wells
23 Fargo paying your property taxes?

24 MR. KOSBIE: I object as to form.

25 THE WITNESS: No.

68

↑

1 BY MS. ROSS:

2 Q Did your uncle ever tell that you the
3 monthly mortgage payments increased?

4 A No.

Delacruz.txt

5 Q Do you know what the monthly mortgage
6 payments increased to?

7 A Not at all.

8 Q And you don't know this because you
9 weren't paying the monthly mortgage payments?

10 A Yes.

11 Q Is that right?

12 A Yes.

13 Q At some point, did your uncle stop making
14 the monthly mortgage payments?

15 A I don't know. I don't know that.

16 Q Did you ever become aware of your uncle no
17 longer making monthly mortgage payments?

18 A I don't know. I don't think so. He never
19 told me.

20 Q Did the bank ever contact you directly to
21 discuss?

22 A I think so, yeah.

23 Q When was that?

24 A I don't remember. It was a while back.

25 Q Maybe 2013?

69

↑

1 A Maybe.

2 Q Does your uncle still live in Stockton?

3 A I think so, yes.

Delacruz.txt

4 Q When was the last time you talked to him?

5 A This summer.

6 Q So as far as you know, he still lives in
7 the house with his wife?

8 A Yes.

9 Q In Stockton? I'm now handing you what
10 we're going to mark as 610, which is Bates labeled
11 WFHERNANDEZ 00174457.

12 (Defendant's Exhibit was marked for
13 identification.)

14 BY MS. ROSS:

15 Q This is a letter from Wells Fargo directed
16 to you; is that right?

17 A Yes.

18 Q And it was sent to the address 2942 Fisher
19 Court, Number 1934, Stockton, California; is that
20 right?

21 A Yes.

22 Q Did you ever read this letter?

23 A No.

24 Q Did your uncle ever tell you that he
25 received a letter that the mortgage loan is

70

↑

1 delinquent?

2 A No.

Delacruz.txt

3 Q Is it -- or strike that.

4 Did Wells Fargo start contacting you
5 directly about the mortgage after June 2013?

6 A I don't remember.

7 Q At this point in time, June 2013, had you
8 ever talked to Wells Fargo directly about your
9 mortgage?

10 A No.

11 Q Did you ever tell Wells Fargo that your
12 uncle was making the monthly payments?

13 A No.

14 Q And did you ever provide Wells Fargo with
15 your uncle's contact information?

16 A No.

17 Q Did you ever provide Wells Fargo with your
18 uncle's phone number?

19 A No.

20 Q Do you know what phone number Wells Fargo
21 used to contact you?

22 A My cell phone or --

23 Q What's your cell phone number?

24 A (415)632-6443.

25 Q Did your uncle ever tell you that he had

71

↑

1 difficulty making the monthly payments?

Delacruz.txt

2 A No, not at all.

3 Q Did your uncle ever ask you to pay --
4 make -- let me start over.

5 Did your uncle ever ask you to make the
6 monthly payments?

7 A No.

8 Q Would you have made the monthly payments
9 if your uncle asked?

10 MR. KOSBIE: Objection as to form.

11 THE WITNESS: I don't know.

12 MS. ROSS: I'm now handing you what we're
13 going to mark as Exhibit 611.

14 (Defendant's Exhibit was marked for
15 identification.)

16 BY MS. ROSS:

17 Q This exhibit is Bates labeled WFHERNANDEZ
18 00178506 to 178507. And it is a letter from Wells
19 Fargo directed to you; is that right?

20 A Yes.

21 Q And it was sent to the property address
22 2942 Fisher Court, Number 1934, Stockton,
23 California; is that right?

24 A Yes.

25 Q And the letter is dated June 17th, 2013;

72

Delacruz.txt

↑

1 is that right?

2 A Yes.

3 Q And have you ever read this letter before?

4 A No.

5 Q And why not?

6 A I've never seen it.

7 Q Did your uncle ever forward you mail that

8 you received at the Fisher Court address?

9 A No.

10 Q So any mail that was sent to the Fisher
11 Court address addressed to you you would never have
12 seen?

13 A No.

14 Q This letter says our records indicate that
15 your loan is in default for failure to make payments
16 due. Unless the payments on your loan can be
17 brought current by July 22nd, 2013, it will become
18 necessary to require immediate payment in full of
19 your mortgage note and pursue the remedies provided
20 for in your mortgage or deed of trust, which include
21 foreclosure.

22 Do you see that?

23 A Yes.

24 Q And then it says to cure the default you

Delacruz.txt

25 must pay the total delinquency against your account,

73

↑

1 which as of today's date is, and then it has the
2 total delinquency as of June 17th, 2013, and that
3 amount is \$685.33.

4 Do you see that?

5 A Yes.

6 Q Were you aware that your loan was in
7 default in June 2013?

8 A No.

9 Q Do you have any reason to doubt that your
10 loan was in default in June 2013?

11 A I don't remember. No.

12 Q Do you know why your loan was in default
13 in June 2013?

14 MR. KOSBIE: Objection as to form.

15 THE WITNESS: Not making payments, I
16 guess.

17 BY MS. ROSS:

18 Q Who wasn't making payments?

19 A I guess my uncle.

20 Q Were you in contact with your uncle in
21 June 2013?

22 A Not very much.

23 Q And he never mentioned to you that he was

Delacruz.txt

24 no longer making payments on the property?

25 MR. KOSBIE: I object as to form.

74

↑

1 THE WITNESS: I don't remember.

2 BY MS. ROSS:

3 Q Was there anything going on in your
4 uncle's life that you were aware of that would have
5 made it difficult for him to make payments?

6 A I don't know. I don't know that.

7 Q I'm now handing you what we're going to
8 mark as Exhibit 612.

9 (Defendant's Exhibit was marked for
10 identification.)

11 BY MS. ROSS:

12 Q 612 is Bates labeled WFHERNANDEZ 00174471
13 to 00174474.

14 Have you ever seen this document before?

15 A I don't remember, no, I don't think so.

16 Q And it is a letter from Wells Fargo
17 directed to you; is that right?

18 A Yes.

19 Q And it was sent to the address 2942 Fisher
20 Court, Number 1934, Stockton, California; is that
21 right?

22 A Yes.

Delacruz.txt

23 Q And it is dated July 9th, 2013; is that
24 right?

25 A Yes.

75

▲

1 Q And during this time, you were not located
2 at 2942 Fisher Court; is that right?

3 A Yes.

4 Q And your uncle was overseeing that
5 property at 2942 Fisher Court?

6 A Yes.

7 Q And would have been checking the mail,
8 yes?

9 A Yes.

10 Q Yes. Okay.

11 A Sorry.

12 Q This letter is regarding the delinquent
13 status of the mortgage.

14 Do you see that?

15 A Yes.

16 Q And looking down at the bottom of the
17 first page, it says, mortgage account status.

18 Do you see it says the total amount, the
19 first bullet point, it says the total amount needed
20 to reinstate or bring your account current is \$1,033
21 and 46 cents? Do you see that?

Delacruz.txt

22 A Yes.

23 Q And then looking down to the fourth bullet
24 point, it says the date of the last full payment was
25 April 15th, 2013.

76

▲

1 Do you see that?

2 A Yes.

3 Q Is it correct that the last payment made
4 on the mortgage was April 15th, 2013?

5 A I don't know.

6 Q Why don't you know?

7 MR. KOSBIE: I object as to form.

8 THE WITNESS: Because I don't pay the
9 mortgage. I didn't pay the mortgage. I don't pay
10 the mortgage.

11 BY MS. ROSS:

12 Q And you weren't paying attention to
13 whether or not your uncle was paying the mortgage?

14 A Mh-hm.

15 Q So you weren't aware in July 2013 that
16 your mortgage was past due?

17 A Yes.

18 Q And you weren't aware in July 2013 that
19 the last payment made on the mortgage was
20 April 15th, 2013; is that right?

Delacruz.txt

21 A Yes.

22 Q But you said earlier that at some point
23 Wells Fargo started contacting you directly,
24 correct?

25 A Yes.

77

↑

1 Q And do you recall when that was?

2 A No, I don't.

3 Q Do you recall what they were telling you?

4 A No. I don't remember.

5 Q Was it regarding the mortgage loan at --

6 A Yeah.

7 Q Was it letting you know that the loan was
8 past due?

9 A I think so, yes.

10 Q Okay. I'm now going to show you what
11 we're going to mark as Exhibit 613.

12 (Defendant's Exhibit was marked for
13 identification.)

14 BY MS. ROSS:

15 Q This document is Bates labeled WFHERNANDEZ
16 001-7448 to 00174450. This is a letter from Wells
17 Fargo directed to you; is that right?

18 A Yes.

19 Q And if you look on the first page of the

Delacruz.txt

20 document, it was sent to the address 583 Gellert
21 Boulevard, Daly City, California; is that right?

22 A Yes.

23 Q And that's the address where you live?

24 A Yes.

25 Q That's the address where you lived in

78

↑ 1 2013; is that right?

2 A Yes.

3 Q And the letter is dated August 6th, 2013;
4 is that right?

5 A Yes.

6 Q Okay. Did you receive this letter?

7 A I don't remember.

8 Q Do you have any reason to doubt that you
9 received this letter?

10 A No.

11 Q Because this is where you lived at the
12 time?

13 A Yes.

14 Q So it is likely that you received it?

15 A Mh-hm.

16 Q Did you read the letter?

17 A No.

18 Q Looking at the first paragraph of the

Delacruz.txt

19 letter, it says, we want to help you and see if
20 you're eligible for a federal government's home
21 affordable modification program, and if not we'll
22 discuss other loan modification options that may
23 help you.

24 Do you see that?

25 A Yes.

79

↑

1 Q And then it provides in the middle of the
2 letter an 800 number that you could call to discuss
3 loan modification options.

4 Do you see that?

5 A Yes.

6 Q What did you do when you received this
7 letter?

8 A I didn't -- I didn't pay attention to it.
9 Probably threw it away, thought it was junk mail.

10 Q So you never called the 800 number?

11 A No, I didn't.

12 Q And you never reached out to Wells Fargo
13 about loan modification options?

14 A Not at all.

15 Q Did you speak to your uncle about the
16 property after receiving this letter?

17 A I don't remember.

Delacruz.txt

18 Q So when did you become aware that your
19 home was going to go into foreclosure?

20 A When they were garnishing my wages.

21 Q When was that?

22 A I don't remember either, but it was
23 maybe -- I think '13. No, maybe '12. I'm not sure.
24 I'm not sure.

25 Q How much were they taking out of your
1 wages?

80

2 A I don't remember either. All I know is
3 they talked to my boss.

4 Q Okay. And by they, you're referring to
5 Wells Fargo?

6 A I believe so.

7 Q I'm now handing you what we're going to
8 mark as Exhibit 614.

9 (Defendant's Exhibit was marked for
10 identification.)

11 BY MS. ROSS:

12 Q Exhibit 614 is Bates labeled WFHERNANDEZ
13 00174500 to 00174501.

14 And this is a letter from Wells Fargo
15 directed to you; is that right?

16 A Yes.

Delacruz.txt

17 Q And it was sent to the address 583 Gellert

18 Boulevard, Daly City, California; is that right?

19 A Yes.

20 Q And the letter is dated September 12th,

21 2013; is that right?

22 A Yes.

23 Q And you were living at the Gellert

24 Boulevard address in September 2013; is that right?

25 A Yes.

81

↑

1 Q Did you receive this document?

2 A I don't remember.

3 Q But it's possible that you received this

4 document?

5 A It's possible, yes.

6 Q Do you remember reviewing this document?

7 A No, I don't.

8 Q Do you remember generally being aware that

9 your home was going to be entering foreclosure?

10 A Not at all.

11 Q Looking at the first paragraph, it says we

12 understand you may be facing challenges in keeping

13 up with your mortgage payments. If you're feeling

14 overwhelmed and wondering where to get help now a

15 Wells Fargo representative is ready to meet with you

Delacruz.txt

16 right in your own community.

17 Do you see that?

18 A Yes.

19 Q And then underneath it says, come to our
20 free mortgage assistance event in San Francisco.

21 Do you see that?

22 A Yes.

23 Q Did you attend the free mortgage
24 assistance event?

25 A No.

82

↑

1 Q And why not?

2 A I don't remember reading this document.

3 Q So you were not aware at this time that
4 your Fisher Court property was delinquent?

5 A Huh-uh, no.

6 Q As far as you knew at this time, your
7 uncle was still making the monthly payments?

8 A I believe so.

9 Q I'm now handing to you what we have marked
10 as Exhibit 615, which is Bates labeled WFHERNANDEZ
11 00174446 to 00174447.

12 (Defendant's Exhibit was marked for
13 identification.)

14 BY MS. ROSS:

Delacruz.txt

15 Q And this is a letter from Wells Fargo
16 directed to you; is that right?

17 A Yes.

18 Q And it was sent to the address 583 Gellert
19 Boulevard, Daly City, California; is that right?

20 A Yes, yes.

21 Q And the letter is dated September 13th,
22 2013; is that right?

23 A Yes.

24 Q Did you receive this document?

25 A I believe so.

83

▲

1 Q And reading the first paragraph, it says,
2 we are writing to let you know we have referred your
3 mortgage to our foreclosure attorney and the
4 foreclosure process has begun. However, you may
5 still have an opportunity to keep your home or
6 prevent foreclosure even if you previously indicated
7 that you did not wish to stay in your home.

8 Do you see that?

9 A Mh-hm, yes. I'm sorry.

10 Q So is this around when you were first made
11 aware that your home was going to be entering the
12 foreclosure process?

13 A Yes.

Delacruz.txt

14 Q The letter says you still may have time if
15 you act immediately and asks for you to contact
16 Wells Fargo.

17 Do you see that?

18 A Yes.

19 Q Did you contact Wells Fargo?

20 A No.

21 Q And why not?

22 MR. KOSBIE: I object as to form.

23 THE WITNESS: I don't know.

24 BY MS. ROSS:

25 Q Were you concerned that your home was
1 going to be foreclosed?

84

2 A I wasn't.

3 Q Why weren't you concerned?

4 A Because I thought -- because I thought I
5 could take care of it. I mean, not take care of it,
6 but I thought it was going to -- my uncle would take
7 care of it, you know.

8 Q Did you talk to your uncle at this time?

9 A Yeah, I think so. I had an idea he wasn't
10 going to be able to take care of this, but I thought
11 he was.

12 Q And what did you say in this conversation

Delacruz.txt

13 with your uncle?

14 A I just asked him what's going on and he
15 said I think it went south, and I'm like okay.

16 Q So he notified you that he was no longer
17 going to be making payments?

18 A Yeah.

19 Q And did you decide that you were no longer
20 going to make payments either?

21 A Yes.

22 Q And that you were going to let the home go
23 through the foreclosure process; is that right?

24 A Yes.

25 Q And that's why you never reached out to

85

↑

1 Wells Fargo?

2 A Yeah.

3 Q Okay. I'm now handing you what we're
4 going to mark as 616.

5 (Defendant's Exhibit was marked for
6 identification.)

7 BY MS. ROSS:

8 Q And Exhibit 616 is Bates labeled

9 WFHERNANDEZ 00174494 to 00174495.

10 And this is a letter from Wells Fargo
11 directed to you; is that right?

Delacruz.txt

12 A Yes.

13 Q And it was sent to the address on the
14 first page it says 583 Gellert Boulevard, Daly City,
15 California; is that right?

16 A Yes.

17 Q And the letter is dated September 18th,
18 2013; is that right?

19 A Yes.

20 Q Did you receive this document?

21 A I don't remember.

22 Q It's very similar to the document we were
23 just looking at; is that right?

24 A Yeah, yeah.

25 Q Yeah. And you do remember receiving the
1 previous document?

86

2 A Yeah, I think I do, yeah.

3 Q And this is also notifying you that your
4 mortgage is currently in foreclosure; is that right?

5 A Mh-hm.

6 Q And it again says that you may still have
7 an opportunity to keep your home or prevent
8 foreclosure and it tells you to contact Wells Fargo?

9 A Yes.

10 MR. KOSBIE: I object as to form.

Delacruz.txt

11 BY MS. ROSS:

12 Q And did you contact Wells Fargo after
13 receiving this letter?

14 A No.

15 Q And that's because as we just discussed
16 that you were fine letting the home go through
17 foreclosure?

18 MR. KOSBIE: I object as to form.

19 THE WITNESS: (Nods head).

20 BY MS. ROSS:

21 Q Oh, I realize that you nodded your head.

22 A Yes, yes.

23 Q Okay. I'm going to re-ask the question.

24 Did you contact Wells Fargo after

25 receiving the letter, Exhibit 616?

87

↑

1 A No.

2 Q And that's because you were fine letting
3 the home go through foreclosure; is that right?

4 A Yes.

5 Q Okay. So I'm now going to hand you what
6 we are marking as Exhibit 617.

7 (Defendant's Exhibit was marked for
8 identification.)

9 BY MS. ROSS:

Delacruz.txt

10 Q Do you recall receiving an official notice
11 of default that your home was in the foreclosure
12 process?

13 A Yes.

14 Q Looking at Exhibit 617, which is Bates
15 labeled WFHERNANDEZ 00174650 to 174666, is this the
16 notice of default for the property at 2942 Fisher
17 Court?

18 A Yes.

19 Q And this document is dated on the second
20 page, it has a date, September 18th, 2013, at the
21 top; is that right?

22 A Yes.

23 Q Okay. And this notice was sent to you.
24 On the first page it has your -- oh, it has the
25 Fisher Court address; is that right?

88

↑

1 A Yes.

2 Q Okay. Did you receive this document?

3 A Yes.

4 Q Okay. Did you do anything in response to
5 receiving this document?

6 A No.

7 Q You didn't call Wells Fargo?

8 A No, I didn't call Wells Fargo.

Delacruz.txt

9 Q You didn't send any letters to Wells
10 Fargo?

11 A No, I didn't.

12 Q Do you recall that Wells Fargo reached out
13 to you even after the foreclosure process had begun,
14 asking you to call them to discuss options for
15 avoiding foreclosure if you wanted to?

16 A No, I don't remember.

17 Q I'm now handing you what we're going to
18 mark as Exhibit 618.

19 (Defendant's Exhibit was marked for
20 identification.)

21 BY MS. ROSS:

22 Q Exhibit 618 is Bates labeled WFHERNANDEZ
23 00174492 to 00174493.

24 This is a letter from Wells Fargo directed
25 to you; is that right?

89

↑

1 A Yes.

2 Q And it was sent to the address 583 Gellert
3 Boulevard, Daly City; is that right?

4 A Yes.

5 Q And that's where you lived at the time?

6 A Yes.

7 Q And the letter is dated October 10th,

Delacruz.txt

8 2013; is that right?

9 A Yes.

10 Q Do you -- did you receive this document?

11 A I don't remember.

12 Q But it is likely that you did receive it?

13 MR. KOSBIE: I object as to form.

14 THE WITNESS: Probably, yes.

15 BY MS. ROSS:

16 Q Because you generally check your mail that
17 is sent to the Gellert Boulevard address?

18 A Of course, yes.

19 Q The letter says in the first paragraph, we
20 understand you may be facing challenges in keeping
21 up with your mortgage payments. If you're feeling
22 overwhelmed and wondering where to get help now a
23 Wells Fargo representative is ready to meet with you
24 right in your own community.

25 Do you see that?

90

↑

1 A Yes.

2 Q And then it offers for you to come to the
3 mortgage assistance event in San Francisco; is that
4 right?

5 A Yeah.

6 Q Did you attend the mortgage assistance

Delacruz.txt

7 event?

8 A No, I didn't.

9 Q And why not?

10 A Because I don't think I read this.

11 Q Okay. Oh. I guess we're going to take a
12 break because they also have to change the media and
13 that will just give us a couple of minutes.

14 THE VIDEOGRAPHER: We're going off the
15 record. The time is 11:40 a.m.

16 (Recess taken.)

17 THE VIDEOGRAPHER: We are back on the
18 record. The time is 11:55 a.m. and this is the
19 beginning of media Number 2 in the deposition of
20 Jerry Dela Cruz on December 10th, 2019. Please
21 proceed.

22 BY MS. ROSS:

23 Q Mr. Dela Cruz, before we took our break,
24 do you recall that we were kind of going through
25 some letters you received from Wells Fargo?

91

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1 A Yes.

2 Q Okay. I'm going to show you one more.
3 619, please.

4 (Defendant's Exhibit was marked for
5 identification.)

Delacruz.txt

6 BY MS. ROSS:

7 Q I'm showing you a document that we are
8 marking as Exhibit 619, which is Bates labeled
9 00174425 to 00174427. And this is a letter that
10 Wells Fargo sent to you; is that right?

11 A Yes.

12 Q And they sent it to the address 583
13 Gellert Boulevard, Daly City, California; is that
14 right?

15 A Mh-hm, yes.

16 Q And that was the address you were living
17 in at this time?

18 A Yes.

19 Q The letter is dated October 21st, 2013; is
20 that right?

21 A Yes.

22 Q Okay. Did you receive this letter?

23 A I don't remember.

24 Q Is it likely you received this letter?

25 MR. KOSBIE: I object as to form.

92

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1 THE WITNESS: (Nods head).

2 BY MS. ROSS:

3 Q Is that yes?

4 A Yes.

Delacruz.txt

5 Q Do you see in the first paragraph it says,
6 we understand you've been facing challenges and have
7 fallen behind on your mortgage payments. Even if
8 you haven't been eligible for assistance in the
9 past, we may be able to help you avoid a foreclosure
10 sale. Call today to learn about the mortgage
11 assistance and the special incentive opportunity
12 that may be available to you.

13 Do you see that?

14 A Yes.

15 Q So Wells Fargo was asking you to call them
16 to learn about mortgage assistance; is that right?

17 A Yes.

18 Q And did you call Wells Fargo at this time?

19 A No, I didn't.

20 Q And why not?

21 A I didn't feel -- I just didn't want to.

22 Q Do you recall ever calling Wells Fargo
23 about your mortgage?

24 A No.

25 Q Did you ever write to Wells Fargo about

93

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1 your mortgage?

2 A No.

3 Q Did you want to keep the home?

Delacruz.txt

4 A No.

5 Q Why not?

6 A It was out of the way for me. It was too
7 far.

8 Q And you -- I believe you mentioned earlier
9 that when you spoke to your uncle about the mortgage
10 and his lack of monthly payments, he said that it
11 went south, or something like that; is that right?

12 A Yeah.

13 Q And what did you interpret that to mean?

14 A That it wasn't going to happen anymore,
15 that the -- I guess we weren't keeping the property
16 anymore.

17 Q And that's because he wasn't going to make
18 the monthly payments anymore?

19 A I think so, yes.

20 Q And you didn't want to make the monthly
21 payments?

22 A I didn't. I couldn't.

23 Q Did you say -- sorry.

24 A No.

25 Q You couldn't make the monthly payments?

94

↑

1 A No.

2 Q Why not?

Delacruz.txt

3 A I just had other things I had to take care
4 of.

5 Q Such as?

6 A Like my own bills.

7 Q What were your own bills?

8 A Like, you know, credit cards, stuff like
9 that, yeah, the normal stuff.

10 Q Rent?

11 A Rent.

12 Q Utilities?

13 A Yeah, payments, car payments.

14 Q I was going to ask, so you did have car
15 payments as well?

16 A Yes, yes, I did.

17 Q Did you have trouble making payments on
18 these other items you just listed, such as credit
19 cards, rent, utilities?

20 A No.

21 MR. KOSBIE: I object as to form.

22 BY MS. ROSS:

23 Q Were you ever late on making payments on
24 rent?

25 A Rent? No.

95

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1 Q Were you ever late on making payments on

Delacruz.txt

2 utilities?

3 A No.

4 Q Were you ever late on making payments on
5 your car?

6 A Sometimes.

7 Q What about were you ever late on making
8 payments for your credit cards?

9 A Sometimes, yes.

10 Q How often would that be?

11 A I don't remember.

12 Q Like every other month or --

13 A Probably every other month.

14 Q Okay. Did you ever consider keeping the
15 home, the 2942 Fisher Court property?

16 A No.

17 Q Did you think that maybe if the payments
18 were lower, you would be able to keep the home?

19 MR. KOSBIE: I object as to form.

20 THE WITNESS: No.

21 BY MS. ROSS:

22 Q So even if the monthly payments were
23 reduced to, say, \$150 a month, you would have chosen
24 to not keep the property?

25 A Yeah.

Delacruz.txt

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1 MR. KOSBIE: I object as to form.

2 THE WITNESS: Yes.

3 BY MS. ROSS:

4 Q Essentially, it didn't matter what the
5 monthly payments were? You had decided you weren't
6 going to keep the property; is that right?

7 MR. KOSBIE: I object as to form.

8 THE WITNESS: Yes.

9 BY MS. ROSS:

10 Q Because at the time of foreclosure, the
11 monthly payments were around \$330 a month. That was
12 what your uncle had previously been paying. And so
13 just so I'm clear, even if the payments were reduced
14 by the bank to \$200 a month, you would have chosen
15 to continue with foreclosure; is that right?

16 MR. KOSBIE: I object as to form.

17 THE WITNESS: Yes.

18 BY MS. ROSS:

19 Q Even if the payments were reduced to \$50 a
20 month, you would have chosen foreclosure?

21 A I just didn't want any more problems.

22 Q And it was far away for you.

23 A Yes, yeah.

24 Q Yeah. So you are aware then that the

Delacruz.txt

25 property eventually went into foreclosure?

97

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1 A Yes.

2 Q And are you aware that the property was
3 sold?

4 A Not at all.

5 Q Okay. Then let's look at Tab 26. I'm now
6 handing you what we're going to mark as Exhibit 620.
7 (Defendant's Exhibit was marked for
8 identification.)

9 BY MS. ROSS:

10 Q Exhibit 620 is Bates labeled
11 WFHERNANDEZ 178604 to 608.

12 Have you seen this document before?

13 A I don't remember.

14 Q Looking at the top left corner of the
15 document, it identifies the property address as 2942
16 Fisher Court in Stockton, California.

17 Do you see that?

18 A Yes.

19 Q And this is the property address that
20 we've been talking about all day that you previously
21 owned?

22 A Yes.

23 Q And if you look on the second page, at the

Delacruz.txt

24 top, it says trustee in compliance with said notice

25 of trustee sale and in exercise of its powers under

98

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1 said deed of trust sold the herein described

2 property at public auction on January 23rd, 2014.

3 Grantee being the highest bidder at said sale became

4 the purchaser of said property for the amount bid

5 being \$50,000.

6 Do you see that?

7 A Yes.

8 Q Were you aware that the property was sold

9 on January 23rd, 2014?

10 A No.

11 Q And were you aware the property was sold

12 for \$50,000?

13 A No.

14 Q When did you become aware that the

15 property was sold?

16 A I didn't care. I didn't know and I --

17 Q Yeah.

18 A Yeah.

19 Q Do you know if anyone was living at the

20 property at the time of foreclosure?

21 A No, I don't.

22 Q Your uncle wasn't living at the property;

Delacruz.txt

23 is that right?

24 A I don't think he was.

25 Q Do you blame Wells Fargo for the

99

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1 foreclosure of your property?

2 MR. KOSBIE: I object as to form.

3 THE WITNESS: No.

4 BY MS. ROSS:

5 Q Based off of these letters that we've

6 looked at today, especially the ones that were sent

7 to your address at Gellert Boulevard, do you feel

8 like Wells Fargo was willing to work with you if you

9 wanted to save your property?

10 A Yes.

11 Q And that you decided you weren't going to

12 contact Wells Fargo because you didn't want the

13 property anymore; is that right?

14 MR. KOSBIE: I object as to form.

15 THE WITNESS: Yes.

16 BY MS. ROSS:

17 Q When was the next time that you heard from

18 Wells Fargo after the foreclosure?

19 A I don't remember.

20 Q Was it likely when you received a letter

21 in September 2018?

Delacruz.txt

22 A Yes.

23 Q Okay. I'm now handing you what we are
24 going to mark as Exhibit 621.

25 (Defendant's Exhibit was marked for
1 identification.)

100

2 BY MS. ROSS:

3 Q Exhibit 621 is Bates labeled WFHERNANDEZ
4 00174480 to 174482. This is a letter from Wells
5 Fargo directed to you.

6 Do you see that?

7 A Mh-hm.

8 Q And it was sent to --

9 A Yes.

10 Q -- the address at -- no problem. It was
11 sent to the address at 583 Gellert Boulevard, Daly
12 City, California; is that right?

13 A Yes.

14 Q And it's dated September 24th, 2018; is
15 that right?

16 A Yes.

17 Q And the letter is referring to, if you see
18 in the subject, it is referring to the property 2942
19 Fisher Court, Stockton, California?

20 A Yes.

Delacruz.txt

21 Q And it says we have some difficult news to
22 share. When you were considered for a loan
23 modification you weren't approved and now we realize
24 you should have been. We based our decision on a
25 faulty calculation and we're sorry. If it had been

101

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1 correct you would have been approved for a trial
2 modification. And the letter references an enclosed
3 payment; is that right?

4 A Yes.

5 Q And it says in the third paragraph you'll
6 find a payment enclosed to help make up for your
7 financial loss.

8 Do you see that?

9 A What was it again?

10 Q In the third -- it's kind of -- it's the
11 paragraph --

12 A Oh, yes, yes.

13 Q It's the third paragraph, I guess. So it
14 says you'll find a payment enclosed to help make up
15 for your financial loss. Do you see that?

16 A Yes.

17 Q And was there an enclosed check with this
18 letter?

19 A Yes, there was.

Delacruz.txt

20 Q I'm now handing you what we're going to
21 mark as Exhibit 622.

22 (Defendant's Exhibit was marked for
23 identification.)

24 BY MS. ROSS:

25 Q 622 is Bates labeled WFHERNANDEZ 00178619.

102

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1 Is this the check that was enclosed with
2 the letter we were just looking at?

3 A Yes.

4 Q What is the amount of the check?

5 A 15,000.

6 Q And you cashed this check; is that right?

7 A Yes.

8 Q What was your initial reaction to
9 receiving this letter and this check from Wells
10 Fargo?

11 MR. KOSBIE: I object as to form.

12 THE WITNESS: Thank you.

13 BY MS. ROSS:

14 Q You were happy to receive the check; is
15 that right?

16 A Yes.

17 Q Did you talk to anyone about this letter?

18 A No, not really.

Delacruz.txt

19 Q Did you talk to your uncle?

20 A No.

21 Q Looking back at the letter, which is
22 Exhibit 621, now looking at the last -- the
23 paragraph above the we're here to help paragraph, it
24 says, if you don't feel that we've made things
25 right, you can consider mediation.

103

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1 Do you see that?

2 A Yes.

3 Q And then if you see the letter has on the
4 second page a mediation request form.

5 A Mh-hm, yes. Sorry.

6 Q And did you request mediation?

7 A No.

8 Q Why not?

9 A Too much hassle. I was happy with what I
10 had.

11 Q You were happy with the amount of money
12 that Wells Fargo had given to you?

13 A Mh-hm.

14 Q And you didn't think that you necessarily
15 needed more money; is that right?

16 MR. KOSBIE: I object as to form.

17 THE WITNESS: (Nods head).

Delacruz.txt

18 BY MS. ROSS:

19 Q Sorry. I'm going to ask it again just
20 because you nodded your head.

21 A Oh, I'm sorry.

22 Q No problem. You were happy with the
23 amount of -- you were happy with the amount of money
24 that Wells Fargo had given to you; is that right?

25 A Yes.

104

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1 Q Okay. And you didn't necessarily think
2 that you needed more money; is that right?

3 A Yes.

4 MR. KOSBIE: I object as to form.

5 THE WITNESS: Yes.

6 BY MS. ROSS:

7 Q I'm now handing you a document that we are
8 going to mark as Exhibit 623.

9 (Defendant's Exhibit was marked for
10 identification.)

11 BY MS. ROSS:

12 Q Exhibit 623 is Bates labeled WFHERNANDEZ
13 00174476 to 00174479.

14 And this is a letter from Wells Fargo to
15 you dated January 11th, 2019; is that right?

16 A Yes.

Delacruz.txt

17 Q And it was sent to your home at 583

18 Gellert Boulevard in Daly City; is that right?

19 A Yes.

20 Q And it's referring to the property

21 address -- the Fisher Court property?

22 A Mh-hm, yes.

23 Q And this letter is following up on the

24 letter we just looked at about the error; is that

25 right?

105

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1 A Yes.

2 Q And it again attaches a mediation request

3 form, which is on page 3?

4 A Yes.

5 Q And it says that you can request mediation

6 if you do not feel that Wells Fargo has made things

7 right; is that correct?

8 A Yes.

9 Q Did you complete the mediation request

10 form?

11 A No.

12 Q Because you didn't want to mediate; is

13 that right?

14 A Yes.

15 Q Okay. Okay. I'm now handing you what

Delacruz.txt

16 we're going to mark as Exhibit 624.

17 (Defendant's Exhibit was marked for
18 identification.)

19 BY MS. ROSS:

20 Q 624 is Bates labeled WFHERNANDEZ 00174475.

21 And this is a letter from Wells Fargo to
22 you dated November 18th, 2019; is that right?

23 A Yes.

24 Q And it was sent to your address on Gellert
25 Boulevard; is that right?

106

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1 A Yes.

2 Q And this letter again references an
3 enclosed payment?

4 A Yes.

5 Q I'm now handing you what we're going to
6 mark as Exhibit 625.

7 (Defendant's Exhibit was marked for
8 identification.)

9 BY MS. ROSS:

10 Q Exhibit 625 is Bates labeled WFHERNANDEZ
11 00178620.

12 Is this the check that was enclosed with
13 the letter we were just looking at, Exhibit 624?

14 A Yes.

Delacruz.txt

15 Q What is the amount of the check?

16 A 15,000.

17 Q And you cashed that check; is that
18 correct?

19 A Yes, I did.

20 Q Did you talk to anyone about receiving
21 this letter and check in November 2019?

22 A No.

23 Q What was your reaction to receiving this
24 letter?

25 A Happy again.

107

▲

1 Q Did you talk to your uncle about the
2 letter?

3 A Nope, no.

4 Q So in total you received \$30,000 from
5 Wells Fargo; is that correct?

6 A Yes.

7 Q And what did you do with the money?

8 A I put it in my savings.

9 Q Did you give any of the money to your
10 uncle?

11 A No.

12 Q Why not?

13 A He doesn't deserve it.

Delacruz.txt

14 Q Why not?

15 A He's the one -- they were the ones

16 garnishing my wages.

17 Q How much did they garnish of your wages?

18 A I don't remember.

19 Q Do you know how long they were garnishing

20 your wages?

21 A Three, four months.

22 Q So about four months total?

23 A Yeah.

24 Q Do you have -- would that be reflected in

25 your pay stubs?

108

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1 A I believe so.

2 Q And do you have copies of those at your

3 home?

4 A I don't know. I'm not sure.

5 Q Okay. Do you think it would have been

6 ballpark a thousand dollars that they garnished?

7 A I don't remember. I think so.

8 Q Okay. About a thousand?

9 A Yeah, it might have been, yes.

10 Q Would it have been above a thousand?

11 A I don't remember. It hurt a little. It

12 hurt me for a while.

Delacruz.txt

13 Q Yes, no, definitely, definitely. Would it
14 have been less than 5,000?

15 A Less than five -- yes.

16 Q I'm just trying to get a ballpark. So
17 maybe less than 3,000?

18 A I think so, yes.

19 Q So between 1 and 3,000 somewhere, maybe
20 around there?

21 A Yes.

22 Q And we can get the exact number if we
23 need.

24 And they were garnishing your wages
25 because of the foreclosure; is that right?

109

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1 A Yes.

2 Q Do you believe you were harmed by Wells
3 Fargo's actions?

4 MR. KOSBIE: I object as to form.

5 THE WITNESS: No.

6 BY MS. ROSS:

7 Q Do you feel that you have been
8 sufficiently compensated by Wells Fargo for your
9 injuries?

10 MR. KOSBIE: I object as to form.

11 THE WITNESS: Yeah.

Delacruz.txt

12 BY MS. ROSS:

13 Q And do you feel that Wells Fargo has
14 compensated you for the garnished wages that --

15 MR. KOSBIE: I object as to form.

16 BY MS. ROSS:

17 Q -- you had during those four months?

18 A Yes.

19 Q Are you seeking additional damages from
20 Wells Fargo other than the \$30,000?

21 MR. KOSBIE: I object as to form.

22 THE WITNESS: No.

23 BY MS. ROSS:

24 Q Are you planning to further participate in
25 this lawsuit?

110

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1 A What do you mean?

2 Q If you were asked to go to a courtroom and
3 testify before a judge, would you be willing to do
4 that?

5 A No.

6 Q And that's because you're not seeking any
7 additional damages; is that right?

8 A Yeah.

9 MR. KOSBIE: I object as to form.

10 THE WITNESS: Yes.

Delacruz.txt

11 BY MS. ROSS:

12 Q Are you seeking -- one clarification
13 question. You're not seeking any damages for
14 emotional distress from Wells Fargo; is that right?

15 MR. KOSBIE: I object as to form.

16 THE WITNESS: No.

17 MS. ROSS: I think -- if we can just take
18 a quick break so I can go through my notes real
19 quick and make sure I don't have any clarification
20 questions, but I think we're almost done.

21 THE VIDEOGRAPHER: We're going off the
22 record. The time is 12:19 p.m.

23 (Recess taken.)

24 THE VIDEOGRAPHER: We are back on the
25 record. The time is 12:31 p.m. Please proceed.

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1 BY MS. ROSS:

2 Q Mr. Dela Cruz, I only have a few
3 questions, and this is just to clarify some
4 testimony that took place earlier today where you
5 responded with a mh-hm.

6 So during the 2011 to 2013 time period
7 when your uncle was making monthly payments, he
8 never notified you that he was receiving letters
9 from Wells Fargo about past due payments; is that

Delacruz.txt

10 right?

11 A Yes.

12 Q And he never told you that he was not
13 making payments; is that right?

14 A Yes.

15 Q And during this time period before you
16 learned of the foreclosure, you weren't paying
17 attention to whether or not your uncle was making
18 payments; is that right?

19 A Yes.

20 Q And so you weren't monitoring the mortgage
21 with Wells Fargo; is that right?

22 A Yes.

23 Q You were trusting your uncle to make the
24 payments?

25 A Yes, I was.

112

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1 Q Okay. No further questions.

2 MR. KOSBIE: No questions.

3 MS. ROSS: Oh, great.

4 THE VIDEOGRAPHER: This concludes today's
5 deposition of Jerry Dela Cruz on December 10th,
6 2019. We're going off the record. The time is
7 12:32 p.m.

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